

1 cousin was murdered. Family members noticed that he had become visibly depressed. He began
2 to abuse painkillers and unfortunately turned to selling small amounts of drugs to support
3 himself.

4 On February 4, 2008, Mr. Green appeared on a two-count indictment charging him with
5 distribution of cocaine base. Only two months later, he pleaded guilty to both counts of the
6 indictment without challenging the government's case by motion or otherwise. On July 11,
7 2008, he will stand before the Court for sentencing under two provisions of the Sentencing
8 Guidelines that have drawn especially sharp criticism from the federal bench, one of them having
9 drawn biting criticism from the Sentencing Commission itself: the crack guidelines and the
10 career offender provision. Collectively, these Guidelines provisions have generated a wealth of
11 legal challenges, empirical research, legislative hearings, Sentencing Commission revisions and
12 scholarly debate. Neither of these provisions can be honestly reconciled with 18 U.S.C.
13 §3553(a), and neither should control the sentence in Mr. Green's case. For these reasons and
14 those that follow, Mr. Green respectfully requests that the Court sentence him to seven years.

15 **2. Background**

16 This case arose from a narcotics investigation in Richmond. Ironically, the investigation
17 was directed towards someone named "Rodney," not Mr. Green. When a confidential informant
18 drove into Mr. Green's neighborhood looking for Rodney, she learned that Rodney was
19 elsewhere and she decided to attempt to purchase rock cocaine from Mr. Green. The informant
20 ultimately made two purchases from Mr. Green: one of 9 grams and the other of 4.4 grams. Mr.
21 Green was arrested on a federal warrant on February 4, 2008.

22 **3. Comments on the Pre-Sentence Report**

23 ¶ 6. This paragraph suggests that the operation was designed to conduct a controlled
24 purchase from Mr. Green. In fact, the target of the investigation was someone named "Rodney,"
25 not Mr. Green.

26 ¶¶ 36, 37. The probation officer assigns one point each to these misdemeanor driving

1 offenses. These convictions were submitted by the government and not included in the draft pre-
 2 sentence report. It appears that these convictions were suffered on the same date, July 2, 2001,
 3 and there is no evidence of an intervening arrest. As such they are counted as a single sentence
 4 under USSG §4A1.2(a)(2). It also appears that Mr. Green was arrested for being a felon in
 5 possession of a firearm on June 5, 2001, and sentenced on July 2, 2001. PSR, ¶ 35. It is not
 6 clear whether there was an intervening arrest between the misdemeanor driving offense(s) and
 7 the felon in possession of a firearm offense. If not, §4A1.2(a)(2) could operate to render all three
 8 convictions related for purposes of computing criminal history.

9 ¶¶ 42, 43. It is not clear that Mr. Green's criminal history is Category VI.

10 **4. Sentencing Recommendation**

11 **I.**

12 **The Components of A Reasonable Sentence**

13 *United States v. Booker*, 543 U.S. 220 (2005), directs the sentencing court to impose an
 14 appropriate sentence, unencumbered by offense levels, criminal history, or the availability of
 15 authorized downward departures. Under the post-*Booker* discretionary sentencing regime, there
 16 is no longer any question that the advisory Guideline range is only one factor among several that
 17 this Court is required to consider in determining what constitutes a reasonable sentence. The
 18 Court is free to disagree with Guideline ranges and policy considerations. *See Kimbrough v.*
 19 *United States*, 128 S.Ct. 558, 57 (2007). While circuit courts of appeal may apply a presumption
 20 of reasonableness to sentences within the applicable Guidelines range, *Rita v. United States*, 127
 21 S.Ct. 2456 (2007), the district court "does not enjoy the benefit of a legal presumption that the
 22 Guidelines sentence should apply." *Id.* at 2465. Nor is it required to use a formulaic approach
 23 yielding a mathematical justification of non-Guidelines sentences. *Gall v. United States*, 128
 24 S.Ct. 586, 596 (2007). Rather, it must exercise "reasoned sentencing judgment, resting upon an
 25 effort to filter the Guidelines' general advice through § 3553(a)'s list of factors." *Rita*, 127 S.Ct.
 26 at 2469.

1 Sentencing discretion, therefore, is not a hollow term of art. The courts of appeal are
 2 limited to reviewing sentences for abuse of discretion and may not presume that a sentence which
 3 may be much lower than that suggested by the Guidelines is unreasonable. *Gall*, 128 S.Ct. at
 4 597. To the contrary, *Gall* emphasized the importance of deferring to the judgment of the
 5 sentencing courts, explaining:

6 The sentencing judge is in a superior position to find facts and judge their import
 7 under § 3553(a) in the individual case. The judge sees and hears the evidence,
 8 makes credibility determinations, has full knowledge of the facts and gains
 9 insights not conveyed by the record. “The sentencing judge has access to, and
 greater familiarity with, the individual case and the individual defendant before
 him than the Commission or the appeals court.”

10 *Id.* at 597-98 (quoting *Rita v. United States*, 127 S.Ct. 2456, 2469 (2007)).

11 18 U.S.C. § 3553(a), the wellspring from which a reasonable sentence must be drawn,
 12 “contains an overarching provision,” *see Kimbrough*, 128 S.Ct. at 570, directing the district court
 13 to impose a sentence that is “sufficient, but not greater than necessary, to comply with” the
 14 purposes of sentencing. Section § 3553(a) (emphasis added). Those purposes include the need:

- 15 • to provide just punishment;
- 16 • to create adequate deterrence;
- 17 • to protect the public; and
- 18 • to provide the defendant with necessary treatment and training.

19 Section 3553(a)(2).

20 In sum, “th[e] mandatory system [embodied in § 3553(b)] is no longer an open choice,”
 21 *Booker*, 543 U.S. at 263, and the district court’s duty is to impose the least amount of time
 22 necessary to achieve § 3553(a)’s purposes. The Guidelines range is subordinate to that duty.

23 For a number of reasons, Mr. Green believes that a sentence of seven years is sufficient
 24 but not greater than that necessary to meet the directives of 18 U.S.C. §3553(a).

1 II.

2 A Sentence of Seven Years is Appropriate in This Case

3 A. A Sentence of Seven Years is Just Punishment

4 (1) The crack/powder disparity justifies a below-guidelines sentence.

5 Mr. Green accepts responsibility for possessing crack cocaine with the intent to distribute
6 it, and stands ready to suffer the consequences. Those consequences are harsh.

7 Congress, at long last, seems to grasp this. Senators Joseph Biden and Orrin Hatch, and
8 Representative Charles Rangel individually have sponsored legislation to either equalize or
9 reduce the disparities between sentences for powder and crack cocaine: S. 1711 and H.R. 460
10 would set a single mandatory minimum at the current powder cocaine levels and eliminate the
11 five-year mandatory minimum for simple possession of crack cocaine; S. 1685 would increase
12 the amount of crack cocaine necessary to trigger the five-year mandatory minimum from 5 to 25
13 grams, and the ten-year mandatory minimum from 50 to 250 grams.

14 The federal bench has long voiced dissatisfaction with the crack guidelines. The Judicial
15 Conference's Criminal Law Committee helped persuade the Sentencing Commission to make the
16 recently enacted crack guidelines amendments retroactive. U.S. District Judge Paul Cassell's
17 letter to the Commission, dated November 1, 2007, stated in no uncertain terms the Judicial
18 Conference's "view that the disparity between penalties for powder cocaine and crack cocaine is
19 not supportable and harms public confidence in the federal judiciary."¹

20 The debate engendered by the crack-powder disparity is now, it appears, evolving into
21 something resembling a consensus that both the relevant statutes and sentencing guidelines are
22 grotesquely unfair. In *Kimbrough v. United States*, 128 S.Ct. 558 (2007), the Supreme Court
23 declared that "the crack/powder disparity produces disproportionately harsh sanctions, i.e.,
24

25 ¹ Available at:
26 http://sentencing.typepad.com/sentencing_law_and_policy/files/clc_letter_re_crack_retroactivity.pdf.

1 sentences for crack cocaine offenses ‘greater than necessary’ in light of the purposes of
2 sentencing set forth in § 3553(a).” 128 S.Ct. at 675. *Kimbrough*’s declaration is now finding its
3 voice in the courts of appeal. In *United States v. Medina Casteneda*, 511 F.3d 1246, 1248 (9th
4 Cir. 2008), for example, the district court rejected the defendant’s request that it consider the
5 powder/crack disparity in determining his sentence. *Medina Casteneda*, 511 F.3d at 1248-49.
6 The Ninth Circuit remanded and directed that the district court reconsider the defendant’s
7 sentence “in light of the *Kimbrough* decision and to determine whether the disparity between
8 crack and powder cocaine produced a sentence ‘greater than necessary’ under § 3553(a). *Id.* at
9 1249. *Kimbrough* and *Medina Casteneda* each confirm that the crack/powder disparity is a
10 relevant factor to consider under § 3553(a).

11 Apropos of this disparity, the court in *United States v. Barsumyan*, 517 F.3d 1154, 1159
12 (9th Cir. 2008), observed that “[i]f the operation of one particular guideline has inappropriately
13 distorted the final range calculation, that is one factor which the district court may take into
14 account in determining the final sentence.” Here, the crack cocaine guideline, as compared to the
15 applicable powder cocaine guidelines, distorts the final calculation. Were Mr. Green to be
16 sentenced under the 1:1 ratio recommended by the Sentencing Commission, the base offense
17 level would be 12, based on 13.4 grams of cocaine. See USSG § 2D1.1(c)(14). The resulting
18 guidelines range, even assuming Criminal History Category VI, would be 30 to 37 months. Mr.
19 Green is not asking for such a sentence, but is instead requesting a sentence that would be well
20 above what he would face based on powder cocaine.² A sentence of seven years, based in part on
21 the powder/crack disparity, would ensure that the sentence was based on the nature of the offense
22 and would adequately deter criminal conduct.

24 ² Mr. Green’s status as a career offender would set a default offense level of 32 and
25 Criminal History Category VI, based on the offense statutory maximum for distributing 13.4
26 grams of cocaine powder, namely 20 years. Even as a career offender, however, Mr. Green
would “only” face 151 to 188 months upon a guilty plea. As discussed *post*, the Career Offender
provision also distorts the range of punishment in Mr. Green’s case.

1 (2) The career offender provision is inconsistent with § 3553(a).

2 The career offender guideline range is both extraordinarily severe and markedly unlikely
3 to promote sentencing purposes prescribed by the guidelines. See USSC, *Fifteen Years of*
4 *Guidelines Sentencing: An Assessment of How Well the Federal Criminal Justice System is*
5 *Achieving the Goals of Sentencing Reform*, at 133-34 (2004). A bit of background is necessary
6 to see why this is so.

7 The genesis of the career offender provision is 28 U.S.C. § 994(h), which suggests that
8 career offenders be sentenced near the statutory maximum. By its terms, the statute is directed to
9 the Sentencing Commission, not the courts. The Senate Report explained that it “was added to
10 the bill . . . to replace a provision . . . that would have mandated a sentencing judge to impose a
11 sentence at or near the statutory maximum for repeat violent offenders and repeat drug
12 offenders.” S. Rep. No. 98-225 at 175 (1983). The Sentencing Commission, however, rather
13 than employing an empirical approach³ to the career offender provision by examining past
14 sentencing practices, instead keyed the offense levels to statutory maximum sentences. USSG
15 §4B1.1(b)(A) - (G).

16 The government has argued in other cases that a sentence below the career offender
17 guideline range based on the reasoning in *Gall* would nullify § 994(h), but the argument has not
18 been well-received. In *United States v. Martin*, 520 F.3d 87 (1st Cir. 2008), affirming a 91-month
19 downward variance from the career offender guidelines, the court found the argument to be
20 “wide of the mark. The Supreme Court’s recent decision in *Kimbrough*, 128 S. Ct. at 574-75,
21 opened the door for a sentencing court to deviate from the guidelines in an individual case even
22 though that deviation seemingly contravenes a broad policy pronouncement of the Sentencing
23 Commission.” *Id.* at 96. As the Second Circuit trenchantly has observed, “Congress did not
24

25 ³ The Supreme Court noted that it was “fair to assume” that a guideline range
26 “reflect[s] a rough approximation” of sentences consistent with §3553(a)’s objectives because
the Commission had taken an empirical approach, i.e. examining past sentencing practices, in
formulating many of the guidelines. *Rita*, 127 S.Ct. at 2464-65.

1 intend § 994(h) to deprive the courts of authority to impose on a career offender a prison term
2 that is not near the statutory maximum.” *United States v. Sanchez*, 517 F.3d 651, 662-65 (2d Cir.
3 2008); *see also United States v. Boardman*, 528 F.3d 86, 87 (1st Cir. 2008) (remanding to permit
4 district court to consider sentence below the career offender guidelines).

5 The foregoing makes clear that the career offender guidelines – more often than not, and
6 most certainly in Mr. Green’s case – do not consist with, much less advance, the goals of
7 §3553(a). Here, the career offender guidelines increase Mr. Green’s total offense level from 21
8 to 31. At Criminal History Category VI, this translates to an increase from a guidelines range of
9 77-96 months to 188-235 months. In other words, Mr. Green faces a sentence at least nine years
10 higher because of the career offender classification. Application of this classification will
11 “inappropriately distorted the final range calculation,” *Barsumyan*, 517 F.3d at 1159, and the
12 Court accordingly should impose a sentence that more appropriately reflects the directives of
13 §3553(a).

14 Mr. Green is caught in the crossfire from two draconian guidelines provisions: the
15 crack/powder disparity as exacerbated by the career offender provision. Each provision, standing
16 alone, suggests an unduly harsh sentence; together, they result in a potential sentence that simply
17 is not supportable.

18 (3) Mr. Green has shown himself capable of rehabilitation.

19 Mr. Green made an honest and dedicated effort to rehabilitate himself upon his release
20 from prison. As Sheila Harris, Mr. Green’s mother, describes in a letter to the Court, Mr. Green
21 came home determined to make a better life for himself. He experienced the frustration of
22 having his criminal history severely limit his prospects for employment, but persisted until he got
23 a job. He cared for his relatives and involved himself in the lives of his children, who had been
24 adversely affected by the absence of a mother who couldn’t be troubled to care for them. His
25 parole records reflect that he kept in constant contact with his parole officer, did well on his job,
26

1 and, except for two positive drug tests, complied with the conditions of his release.⁴

2 Had he not lost his job following the death of his employer, fate may have written a
3 different outcome. Mr. Green's depression, however, got the better of him and he again began
4 abusing painkillers. The consequences of Mr. Green's addiction to painkillers cannot be
5 overstated. After being shot in the arm at age 20, Mr. Green began using Valium, Vicodin and
6 other codeine-based drugs on a daily basis and in amounts up to 500 milligrams. PSR, ¶¶ 49, 51.
7 He was in fact clearly under the influence at the time of the charged offenses. A video recordings
8 of one of the charged transactions shows Mr. Green, glassy-eyed and unsteady, speaking almost
9 incoherently to the informant.

10 Mr. Green nonetheless is optimistic about his future. He presently is working on
11 obtaining his GED, and, as the letters from family and friends attest⁵, he can draw from the
12 support of those close to him.

13 For all these reasons, Mr. Green asks that the Court impose a sentence of seven years.

14 **D. A Sentence of Seven Years Will Create Adequate Deterrence**

15 Mr. Green has only one prior prison sentence, and that sentence resulted from an assault
16 conviction. He has suffered no subsequent convictions or arrests involving firearms, and the
17 Court may presume that his prison sentence has adequately deterred him from possessing
18 firearms.

19 He previously served 210 days for a drug offense. A sentence of seven years therefore is
20 twelve times as long as any previous punishment for a drug offense, and two years more than the
21 sentence imposed for his assault conviction. Further, a seven-year sentence, when considered in
22 conjunction with the more intensive supervision employed by the U.S. Probation Office, creates
23 an environment sufficiently restrictive to deter Mr. Green from re-offending.

24
25 ⁴ A copy of his parole records is attached as Exhibit A.

26 ⁵ Copies of these letters are attached collectively as Exhibit B.

1 **E. Protection of the Public**

2 The requested sentence similarly will protect the public. Mr. Green is not eligible for
3 probation and will not be released back into the community for a substantial period of time.
4 During that time, he will have access to programs and counseling, and be better equipped to
5 address and deal with the issues that have caused problems in his life.

6 **F. A Seven-Year Sentence Will Permit Necessary Treatment and Training**

7 Mr. Green's substance abuse problems are acute. His participation in RDAP, the
8 Residential Drug Abuse Treatment Program offered by the Bureau of Prisons, will permit him to
9 overcome a persistent pattern of substance abuse.

10 **4. Conclusion**

11 For the reasons stated, Arrington Green respectfully requests that the Court impose a
12 sentence of seven years.

13
14 Dated: July 3, 2008

15 Respectfully submitted,

16 BARRY J. PORTMAN
17 Federal Public Defender

18 

19 JEROME E. MATTHEWS
20 Assistant Federal Public Defender

Exhibit A

U.S. v. Arrington Green
CR-08 00045 DLJ

DEPARTMENT OF CORRECTIONS

02/25/2008 MON 18:13 [TY/PY NO 52841] 7000

STATE OF CALIFORNIA
 RECORD OF SUPERVISION
 CDC 1650D (Rev 8/96)

DEPARTMENT OF CORRECTIONS

TYPE OF CONTACT										CDC NUMBER		PAROLEE'S NAME	
RESIDENCE	JAIL	EMPLOYMENT	OFFICE	TELEPHONE	ATTEMPTED CONTACT	COLLATERAL	ANT DATE / RESULT	OTHER (e.g., Non-Report, etc.)	CASE REVIEW	DATE	TIME	A DATE AND TIME ENTRY IS REQUIRED ON ALL CONTACTS	
							N			4/4/07	1330	"S" came into the office and ANT was observed. "S" said he went to the doctor and was given the following meds: OXYCODONE 10MG. KP	
		X					X			4/6/07	0700 0715	AOR saw "S" at the ROR. mom said "S" is doing fine and is looking for a job because the other one is gone. AOR referred "S" to Walmart. KP	
							N			4/12/07	0730 0740	AOR saw "S" at the ROR and ANT was observed. mom said "S" is doing fine and is still looking for work. KP	
							X			6/25/07		Case Assigned to Agent Stewart The Date. AD	
							X			7/16/07		C/S Date Review 180 Days Case Review Date was Due 3/07. Case has been supervised at the incorrect supervision. The call indicates an error by the VS was High Control, but previous AOR had been	

* RECORD ONLY FACE TO FACE CONTACTS WITH PAROLEE.

DEPARTMENT OF CORRECTIONS

02/25/2008 MON 18:13 ITY/RV NO 52841 7007

STATE OF CALIFORNIA
RECORD OF SUPERVISION
CDC 1650D (Rev 8/96)

DEPARTMENT OF CORRECTIONS

* RECORD ONLY FACE TO FACE CONTACTS WITH PAROLEE.

TYPE OF CONTACT								CDC NUMBER	PAROLEE'S NAME
RESIDENCE	JAIL	EMPLOYMENT	OFFICE	FIELD PHONE	ATTEMPTED CONTACT	CODED CONTACT	ANT DATE / RESULT	AGENT OF RECORD	PAROLE OFFICE
								T98739	GREEN, ARRINGTON
								C. STEWART	IR RICHMOND
								DATE	TIME
								A DATE AND TIME ENTRY IS REQUIRED ON ALL CONTACTS	
					X			7/6/07	2:10
								A.H.V. A.O.R. AT "S" RESIDENCE OF RECORD, NO ONE HOME A.O.R. LEFT CARD. J. Stewart	
								7/7/07	11:40 11:50
								H.V. A.O.R. AT "S" RESIDENCE OF RECORD "S" HOME WITH HIS GRAND MOTHER AND MOTHER A.O.R. TALKED WITH "S" GRANDMOTHER ABOUT "S" GETTING EMPLOYMENT-AND BEING A POSITIVE EXAMPLE FOR HIS CHILDREN. RESIDENCE APPEARS TO BE STABLE- J. Stewart	
								7/9/07	11:10
								PAROLEE REPORTED TO UNIT OFFICE, ANT TEST OBSERVED. "S" WAS GIVEN A JOB REFERRAL- J. Stewart	
								8/6/07	9:00
								PAROLEE REPORTED TO UNIT OFFICE, "S" STATED THAT HE IS LOOKING FOR A FULL-TIME JOB WITH BENEFITS. ANT TEST OBSERVED. J. Stewart	
								9/5/07	12:10 12:15
								H.V. A.O.R. AT "S" RESIDENCE OF RECORD, "S" HOME WITH HIS COUSIN. "S" STATED THAT HE HAS BEEN GOING ON INTERVIEWS, AND HE IS HOPEFUL THAT HE WILL BE SUCCESSFUL IN GETTING THE JOB. RESIDENCE STABLE J. Stewart	
								10/3/07	10:15
								PAROLEE REPORTED TO UNIT OFFICE, "S" STATED THAT HE HAS A PROMISED JOB WITH U-PS' ANT TEST OBSERVED. J. Stewart	

DEPARTMENT OF CORRECTIONS

02/25/2008 MON 18:13 [TX/RX NO 5284] 006

02/25/2008 MON 18:13 [TX/RX NO 5284] 004

STATE OF CALIFORNIA
RECORD OF SUPERVISION
CDCR 1650-D (Rev. 06/07)

DEPARTMENT OF CORRECTIONS AND REHABILITATION
DIVISION OF ADULT PAROLE OPERATIONS

* RECORD ONLY FACE-TO-FACE CONTACTS WITH PAROLEE

TYPE OF CONTACT										CDC NUMBER		PAROLEE'S NAME	
RESIDENCE	MAIL	EMPLOYMENT	OFFICE	TELEPHONE	ATTEMPTED CONTACT	IN PERSON	ANT DATE / RESULT	OTHER (Monthly Report, etc.)	CASE REVIEW	ADA ARMSTRONG ACCOMMODATION CODES	AGENT OF RECORD	BADGE #	PAROLE OFFICE
											J38910		Green, Arlinton
											Hairston		Richman
											DATE	TIME	** A DATE AND TIME ENTRY IS REQUIRED ON ALL CONTACTS
											1-23-08		<p>last seen 10-30-07 for positive Ant. Quoted 11/07-1/08 missed Jan FFI in residence for 10/07. Spoke with for 11/07. 12/07 Spoke with for 11/08 by current Agent. Good job. Positive Ant. Noted for 1-08. Next seen 4/18/08 violation occurs first JAN</p>
											2/23/08	1345	<p>J in ok as instructed. Informed J of Positive ANT result. Directed J to BSN app scheduled for 4 weeks. J informed he would be required to attend meetings 4 times a week in the evenings. J completed enrollment of BSN Card Sharon The from J mother (Heil-Hansen). Pays J arrested by Fed. on ok warrant. J in Oakland CA</p>
											2/4/08	819	

ADA ARMSTRONG ACCOMMODATION CODES:

1=Spoke Slowly/Simple English; 2=Interpretive Services; 3-Hearing Amplification; 4=Written Notes; 5=ASL/American Sign Language; 6=Vision Assistance; 7=TDD Services.

DEPARTMENT OF CORRECTIONS AND REHABILITATION
DIVISION OF ADULT PAROLE OPERATIONS

*** RECORD ONLY FACE-TO-FACE CONTACTS WITH PAROLEE**

CDC NUMBER		PAROLEE'S NAME
AGENT OF RECORD		PAROLE OFFICE
DATE	TIME	"A DATE AND TIME ENTRY IS REQUIRED ON ALL CONTACTS"
5/5/68	1510	<p>Mr. Brad Wilson of Oakland pretrial services. Mr. Wilson requesting to be on S. Say. I asked for June 2007 offense info to under cover. He requested Rpt making charges. Mr. Wilson inquired how I doing on parole. Informed Mr. Wilson of 2 drug use violations. Also noted I just remove off E.D. Mr. Wilson # (616) 637-3751. Says he will fax Rpt. <i>AA</i></p>
5/6/68		<p>Mr. D. Butts of D.A. office RPT. Says they are doing nothing paperwork together. He wanted receive something today or tomorrow. <i>AA</i></p>
5/7/68		<p>OBTAIN DRUG RPT, submit to CASE REVIEW. <i>AA</i></p>
5/16/68	1145	<p>Mr. Glen Dwyer Tel to confirm custody. referenced SRT. <i>AA</i></p>

=Spoke Slowly/Simple English; 2=Interpretive Services; 3=Hearing Amplification; 4=Written Notes; 5=ASL/American Sign Language; 6-Vision Assistance; 7=TTD Services.

Exhibit B

U.S. v. Arrington Green
CR-08 00045 DLJ

Dear Judge Jensen,

My name is Sheila Harris and I am Arrington's mother. I just want to say, the person that stands before you is not all bad. He is a good father and a good son. I know his record shows different, but please believe that there is another side to my baby. When Arrington came home, he got a job with a Janitorial Service. He had filled out numerous applications and was so happy he was finally able to find a job and one that fitted all his needs. I worked in the mornings and he worked at night so we were able to help each other out a lot. He would take me to work, his twin boys to school, and my mother, who suffers from Alzheimer's and unable to care for herself, to my sister's house every morning after he got off work.

Arrington was devastated when the owner of the janitorial service died in a motorcycle accident. He felt as if the one person who had given him a chance to turn his life around was gone and he was back at square one. The company went out of business and Arrington was unemployed again. This took a huge toll on him because it was really hard to find a decent paying job with his record.

Arrington's twin boys Amonte and Devonte are seven years old. Their mother has been in and out of their lives since they were nine months old and I have had custody of them since then. When Arrington came home he dedicated a great deal of time to his children taking them places and doing things with them they had been missing out on because of the absence of him and their mother. He even tried to reconcile with her in an effort to get their family back together again. When that didn't work, he quickly took on the role of mother and father, making meals, going to school programs/conferences, and doing what it took to restore normalcy to their lives while their mother had decided not to be a part of their lives.

I started to notice my son go into a state of depression. He experienced let down after let down. He tried relentlessly to find a job, to no avail; his kids mother wasn't interested in taking an equal share of responsibility for their children; his grandmother was diagnosed with Alzheimer's; his aunt died in his arms from a sudden death due to a ruptured artery in her heart; and his big cousin was murdered. All these incidents occurred in a matter of months and I believe my son was affected by them. I think he resorted to drugs (using and

selling) and the streets as a way to cover the pain and rejection he was feeling. I would try to help him out by giving him a little money here and there when I could. He felt bad taking it but he couldn't afford to turn it down. I guess Arrington decided to try and make money the wrong way and now it has cost him his freedom. My son is not some BIG drug dealer, he just made a BIG mistake.

Your Honor, I am asking that you please be lenient on my son. I know he broke the law and I know he must pay for that. All I'm asking is that you don't take him away for a long time. Please allow him a chance at rehabilitation and a chance to right his wrongs. His children need him desperately and they will be the ones who will suffer most from his absence.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sheila Harris".

Sheila Harris

Dear Judge Jensen,

I am writing this letter in support of my brother-in-law Arrington Green. I am saddened by this horrible predicament he has gotten himself into. While I am a firm believer that *if you do the crime you must do the time*, I also believe your environment and circumstances play a big part in your everyday decision making and sometimes *desperate times call for desperate measures*.

When Arrington got out of prison, he was determined to make a better life for him and his children. We had countless conversations about jobs he applied for and job leads I had given to him. I had never seen him so excited and optimistic about his future.

When Arrington finally found a job he was on top of the world. He bragged about how he had to hurry home to get some sleep so he could pick up his children and mother and go to work. His happiness was short lived due the tragic death of his boss who died in a motorcycle accident. This was just the beginning of a streak of bad luck that Arrington and his family encountered. Arrington tried to move on and resumed his job search but was unsuccessful in finding a decent job with a felony on his record.

Judge, I know you see a lot of young men come through your courtroom whom have made bad decisions and consequently ended up in jail. While I know you have a job to do, I am pleading with you to consider more rehabilitation and less incarceration for my brothers

and sisters who still have hope. I know we are all in control of our own destinies but sometimes we take chances due to extenuating circumstances. Arrington tried very hard to do right.

Please consider the lasting effect a long prison term will have on his two young sons. Please give him a chance to rehabilitate himself so he can become a productive citizen and make sure his sons don't travel down the same road. They need him for guidance now more than ever as these are the years when they learn skills that will help them succeed in life.

Thank You,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Senika Levias

April 28, 2008

To Whom It May Concern:

I have known Arrington Green for three and half years on a professional basis. I have had the opportunity to both engage and interact with Arrington in the Latchkey program his boys attended.

In my interactions with Arrington, I can confirm that he is a man of great integrity, is very dedicated to his family, and is honest. In my experiences with Arrington he has always been respectful, courteous, and willing to help out whenever needed.

Furthermore, Arrington has always proven to be dependable and has demonstrated the ability to avert a crisis and provide support or seek support whether personal or family. Arrington is selfless in giving of himself and always open to helping the next person in need.

For your information, I am a Homeless Services Case Manager who has the opportunity to interact and observe behaviors of various people on a regular basis. Arrington has remained appropriate in his display of behaviors regardless of the situation presented to him and he has always been conscientious about his personal presentation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Wilson", with a stylized flourish at the end.

Michelle Wilson

To: Judge

Hi! My NAME IS LELA KEYS, IM ONE OF ARRINGTON'S COUSIN. WE GREW UP TOGETHER. I TAUGHT HIM HOW TO PLAY BASEBALL AN EVERYTHING.

ARRINGTON, HAS REALLY GROWN TO BE A REASONABLE ADULT AND FATHER. IM NOT SAYING THAT HE HAS ALWAYS MADE THE RIGHT DECISION BUT WHO HAS! I KNOW HE REALIZE WHAT HE DID WAS NOT RIGHT, BUT IT'S SO HARD OUT HERE BEING A SINGLE PARENT AND CANT GET A JOB BECAUSE OF YOUR BACKGROUND. I KNOW BECAUSE IM ONE OF THOSE SINGLE PARENTS. ALL ARRINGTON WANTED TO DO IS TRY TO HAVE THE BEST FOR HIS CHILDREN. NOT REALLY KNOWING WHAT HE THOUGHT WAS RIGHT WAS WRONG.

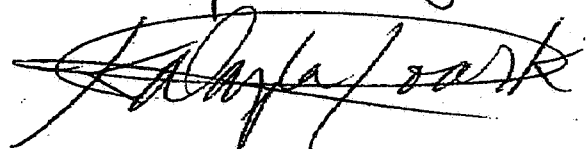
So, I JUST ASK THAT WHATEVER U DECIDE TO GIVE HIM PLEASE BE FAIR AN THINK ABOUT HIS CHILDREN AND MOTHER AN MY GRANDMOTHER BECAUSE ARRINGTON PLAYED A BIG PART IN THEIR LIFE. WE ALL MISS HIM ALREADY

THANK YOU,
Lela Keys

Hello Im kalayla, (Orringtons little cousin)
Orrington Really is a good person
whether people know this or not.
Orrington is a family man, Daily
hes picking up and dropping off
our grandmother, his mother our
aunts and his kids. Before my
mother passed away he did these
things for me and her taking me
to school and everything and having
talks with me about school trying
to direct me in the right path. The
day my mother passed he was there
helping her breathe on her own
you can tell that her death took
a lot out of him but it wasnt in
his hands. People who dont live in
Richmond just dont understand the
impact that it has on your life.
You wake up ready to make something
of yourself but once you mess up
that one time at the end of your day
you find your self like the rest of
the people in your situation... Stuck.

By judging Arrington's situation before you, you only able to see the mistakes he's made in his life. But he's much more than the mistakes he's made on that paper. He's human and every human has made their mistakes. And I only ask that you fairly judge the Arrington that I know. The kind hearted family man who had very little direction of a career that he wanted to be like or become.

Yours truly, Kalayla R.



May 8, 2008

To Whom It May Concern:

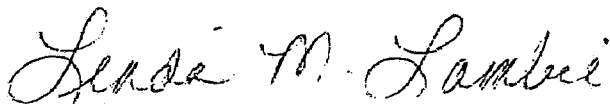
My name is Linda Lambie and I am a teacher at Fairmont Elementary School in El Cerrito, California.

This year I have had the pleasure of having Devonte Green in my first grade class. I also know his brother, Amonte Green, as he is in the other first grade class.

I have met the boys' father, Mr. Arrington Green, as well as their grandmother, Mrs. Sheila Harris. Mr. Green not only attended our scheduled Parent-Teacher Conference in November 2007, but also brought the boys to our school's Annual Family Holiday Potluck in December 2007, where the boys performed a song with other first graders.

I have also had chances to speak with him at various times during the school year when he would come after school to pick up his boys. He always seemed interested in their work and their progress in school.

Thank you,



Linda Lambie
Fairmont School
724 Kearney St.
El Cerrito, CA 94530
(510) 525-5235

Dear Judge,

This letter is on behalf of Arrington Green and the impact of a lengthy incarceration. It will cause a great hardship on his children. Arrington was taking care of his twin boys without the help of their mother. And from what I observed, the boys loved him dearly. The boys are now without a mother and father in their life. I realize that Arrington has committed a crime and should be prosecuted. However, please keep in mind the impact of a lengthy incarceration on his 7 year old twin boys.

Uncle,

A handwritten signature in cursive script that reads "Isiah Harris".

Isiah Harris

To Whom It May COncern:

My name is Paige Levias and I am Arrington Green's only nice. My uncle is one of the many suppoerters in my Grandma's, Shiela Harris, complicated life. Since his recent arrest my grandma has tooken on more stress than usual. He has been a humongous help with her schedule. As you may already know my grandma is the guardian of both Amontae and Devontae Green, which is another big obligation. My uncle presence has always been a positive detail to her life and theirs. For example, he helps take care of my great grandma, Lela Harris, who is 82 years old and needs a great deal of help. Since my grandma is almost aged herself and has been taking care of kids for over 32 years, my uncle could help out now and prevent trauma in my family.

Everyone makes mistakes that are not able to be repaired, but one has to be given a chance to justify their decisions with the ones that love them. Him bein oppressed in a "correctional facility" will only make it harder for him to rehabilitate himself inside and out. I love my uncle more than words can explain, and to see my family, whom I also have so much love for, suffer for his imprisonment kills me inside. And I know it kills my uncle. So please consider his release for the better of my family, especially his kids and mother.

THANKS,
Paige A. Levias

TO WHOM THIS MAY CONCERN:

My name is Arrington Levias and Arrington Green is my uncle. My uncle is a good hearted person, he's not perfect for if he was he wouldn't be in his present position. He loves his family with all his heart and helps us out when he's needed. Especially his mother and grandmother. He also helped his mother raise me. For instance, when I was younger he used to take me to different places. I am currently 17, but he still calls to check on me, makes sure I go to school and encourages me to stay on the right path. My uncle adores his kids, which is natural when a man has to be both the father and mother. He would always pick them up from school and play with them and do all sorts of activities with them. He helped his mother, Shiela Harris, and grandmother, Lela Harris, out a lot because his mom is currently taking care of her mother, who is not in a perfect condition, his kids and herself.

When my uncle got out of jail he was working, but his boss had passed in a motorcycle accident. He completed and solicited many applications, but he wasn't getting any responses. We know he's going to have to suffer from his mistakes, but please have mercy on him and give him another chance for the sake of his family and mostly children. Thank you for taking the time to read my letter.

Arrington L. Levias

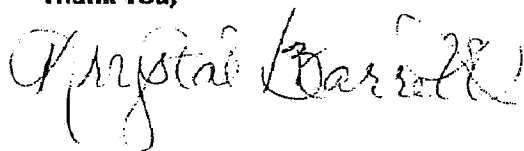
YMCA of the East Bay
West Contra Costa Branch
263 South 20th Street, Richmond, CA 94804
(510) 412-5647 Fax: (510) 412-5650

June 27, 2008

To Judge D. Lowell Jensen,

My name is Krystal Barrett, one of Arrington Greens first cousins. Arrington Green compared to other young men is a great father to his children, wonderful son to his mother and an all around great person towards family and friends. Arrington spends a lot of time with his children, which included; taking and picking them up from school, going to every parent conference, and every school activity which he needed to attend and at times he would volunteer at the school where his children attends. Arrington even volunteered his time at my job which is the Coronado Y.M.C.A of the East Bay on October 31, 2007 for our haunted house event which his children participated in. Not to mention, when the weekends would come, he spent the whole entire day with his children. They would go to the park, beaches, movies, out to lunch and or breakfast, and whatever else would satisfy his children. Arrington helped his mother so much with his grandmother, and when he did that, he was helping two people at once. His mother works an eight hour shift, five days a week and also has to take care of her mother. That alone is a lot of work on her. Arrington would step in all of the time by helping his mother out by making groceries, cleaning the house, doing laundry, etc...This is very true about Arrington Green. Everyone has their downfalls and mistakes in life, but when you're a person as wonderful as Arrington, when it comes to his family and making sure that his priorities are taken care of, I feel that you deserve a second chance at life. I know that Arrington has to serve some time, but please don't let his time be too long. His children, mother, grandmother, and the rest of his family is in need of him because he is a help to all of us in his own way. Please take this letter into consideration.

Thank You,



Krystal Barrett

Recreational Specialist

Community Services



*We build strong kids, strong families,
strong communities.*

June 27, 2008

Dear Judge Jensen,

I am writing you on behalf of my nephew Arrington Green. Arrington is a nice, young gentleman and very family oriented. Especially when it comes to his children and mother. Arrington love to play sports and he teaches his children how to play them. He would show them when he would take them to the park, the beach, or even at his children school on the playground when he would go up there. He helps my baby sister, his mother out a lot with his grandmother. Arrington would come to the house to cook and clean without even being asked. That's just the type of person he is. Arrington also attended school parent conference meetings, participate with his children in the school activities, and willingly volunteered himself at their school. Arrington is a person that has a lot of potential and I wish that the sentence you would give him, is not that long. His children need him to be in their life and also his entire family.

Thank You,

Dorietha Barrett